

**DURHAM, NORTH CAROLINA
MONDAY, AUGUST 7, 2006
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Absent: None.

Also present: City Manager Patrick Baker, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Mayor Bell read a proclamation declaring August 16, 2006 as Ride to Work Day.

Mayor Pro Tempore Cole-McFadden introduced graduates of the D L Forbes Youth Foundation Boot Camp.

The members of the City Council made comments on various community events they attended recently.

Council Member Catotti congratulated City Attorney Henry Blinder who was elected to serve as President of the North Carolina Association of Municipal Attorneys.

Council Member Stith requested that an item be added to the agenda: City Council Meals. Also, he requested that the following items be added to the September 7, 2006 Work Session agenda: 1) New Law Enforcement Strategies to address violent crime in our communities--crime committed with firearms; 2) Revisit ordinances at the local level regarding anti-gang loitering, parental responsibility for youth that were discussed in 2001; and 3) Impact of Illegal Immigrant Gangs in Our Community.

Council Member Clement requested that an item be added to the August 10, 2006 City Council Work Session agenda: Resolution Memorializing George Watts Carr, Jr.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Baker 1) made comments regarding the Council Chambers renovation, read the revised motion for Consent Item #44 [Chapter 14 Personnel, City Code Revisions], recognized Pratt Simmons for receiving the 2006 Zoning Enforcement Officer of the Year Award, requested that Consent Agenda #71 be deferred until a presentation can be made to the School Board/School Superintendent. Finally, he recognized Water Management Director Terry Rolan who provided a status report on lead in the City's tap water—handout provided. Mr. Rolan noted there is no detectable lead in the drinking water leaving the water treatment plants or in the distribution system, discussed how lead is present in tap water, stated a total of 290 customer requests for

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sampling have been received and scheduled, highlighted steps to reduce/eliminate exposure to lead in tap water, emphasized the City would test anybody's water if they are concerned about the lead and commented on the treatment process.

Mayor Bell made comments on the lead test that was done at his home. He noted he feels comfortable in drinking the City's water and suggested if citizens have concerns to call the Durham One Call Office or visit the web site to seek information.

MOTION by Council Member Catotti seconded by Council Member Woodard to approve the City Manager's priority items was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

There were no priority items from the City Attorney.

City Clerk Gray informed Council that the protest petition filed against GBA #61 [Zoning Map Change – 2303 Cook Road] is no longer valid due to withdrawal of all signatures.

Mayor Bell asked that the request by Council Member Stith be added as agenda item #68— City Council Meals.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items 19, 20, 35, 36, 49 and 51 were pulled.

MOTION by Council Member Stith seconded by Council Member Catotti to approve the Consent Agenda as amended was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Council Member Stith seconded by Council Member Catotti to approve City Council minutes for the following meetings; and

June 5, 2006 - Regular Meeting
June 19, 2006 - Regular Meeting

To approve City Council action taken at the June 8, 2006 City Council Work Session was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: RECREATION ADVISORY COMMISSION - APPOINTMENT

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MOTION by Council Member Stith seconded by Council Member Catotti to appoint Umar Muhammad to fill one (1) vacancy on the Recreation Advisory Commission with a term to expire on August 8, 2008 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: PASSENGER VEHICLE FOR HIRE COMMISSION - APPOINTMENT

MOTION by Council Member Stith seconded by Council Member Catotti to appoint Amy Shaw to fill one (1) vacancy on the Passenger Vehicle For Hire Commission representing Handicap with a term to expire on January 1, 2009 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: HOUSING APPEALS BOARD – RECEIPT AND ACCEPTANCE OF AN APPLICATION

MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept an application to fill one (1) Regular Member vacancy on the Housing Appeals Board to represent Landlord with a term to expire on June 30, 2009 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: HUMAN RELATIONS COMMISSION - REAPPOINTMENTS

MOTION by Council Member Stith seconded by Council Member Catotti to reappoint Brian Azar and Larry Holt to fill two (2) vacancies on the Human Relations Commission for one (1) Non-minority Male and one (1) Minority Male with terms expiring on June 30, 2009 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM AREA TRANSIT AUTHORITY – RECEIPT AND ACCEPTANCE OF AN APPLICATION

MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept an application for a citizen to fill one (1) vacancy on the Durham Area Transit Authority for an Alternate Member with the term expiring on March 1, 2007 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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SUBJECT: DURHAM BOARD OF ADJUSTMENT - APPOINTMENT

MOTION by Council Member Stith seconded by Council Member Catotti to appoint David J. Neill to a Regular Member Seat on the Durham Board of Adjustment with a term to expire on June 30, 2009 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM BOARD OF ADJUSTMENT – RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept applications for citizens to fill two (2) vacancies on the Durham Board of Adjustment for one (1) Alternate Member and one (1) Regular Member with terms expiring on June 30, 2009 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: CITY-COUNTY APPEARANCE COMMISSION – RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept applications for citizens to fill three (3) vacancies on the City-County Appearance Commission with two (2) terms expiring on April 1, 2009 and one (1) term expiring on April 1, 2008 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM CITY-COUNTY ENVIRONMENTAL AFFAIRS BOARD – RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept applications for citizens to fill two (2) vacancies on the Durham City-County Environmental Affairs Board representing Water Resources and Solid Waste/Hazardous Waste with terms to expire on June 30, 2009 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM OPEN SPACE AND TRAILS COMMISSION – RECEIPT AND ACCEPTANCE OF AN APPLICATION

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MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept an application for a citizen to fill one (1) vacancy on the Durham Open Space and Trails Commission representing Ward 3 with the term to expire on June 30, 2009 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: CITIZENS ADVISORY COMMITTEE – RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept applications for citizens to fill three (3) vacancies on the Citizens Advisory Committee with two terms expiring on June 30, 2007 and one term expiring on June 30, 2009 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: HUMAN RELATIONS COMMISSION – RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept applications for citizens to fill two (2) vacancies for one (1) Minority Female and one (1) Minority Male on the Human Relations Commission with the terms to expire on June 30, 2009 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: BIDS – MULTI-YEAR TERM CONTRACT FOR GASOLINE (1,500,000 GALLONS) - PETROLEUM TRADERS CORPORATION

MOTION by Council Member Stith seconded by Council Member Catotti to accept the bid from Petroleum Traders Corporation in the estimated amount of \$3,380,700 for furnishing the City with its Estimated Multi-Year Requirements for Gasoline;

To authorize the City Manager to enter into a contract Petroleum Traders Corporation in the estimated amount of \$3,380,700 for furnishing the City with its Estimated Multi-Year Requirements for Gasoline; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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SUBJECT: BID – PAGER RENTAL SERVICE - USA MOBILITY, INC.

MOTION by Council Member Stith seconded by Council Member Catotti to accept the bid from USA Mobility, Inc. in the estimated amount of \$80,000 for providing the City with pager rental service for a twenty-four (24) month period;

To authorize the City Manager to enter into a contract with USA Mobility, Inc. in the estimated amount of \$40,000 per year for an estimated total of \$80,000 for providing the City with pager rental service for a twenty-four (24) month period; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: PIGGYBACK PURCHASE – SEVEN (7) TANDEM AXLE CAB AND CHASSIS - INTERNATIONAL TRUCK AND ENGINE CORPORATION

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a contract with International Truck and Engine Corporation, in the amount of \$427,028 for providing the City with seven Tandem Axle Cab & Chassis; and

To authorize City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: BID – ESTIMATED ANNUAL REQUIREMENTS FOR ASPHALTIC CONCRETE - CAROLINA SUNROCK CORPORATION

MOTION by Council Member Stith seconded by Council Member Catotti to accept the bid from Carolina Sunrock Corporation in the amount of \$317,855 for providing the City with its Estimated Annual Requirements for Asphaltic Concrete;

To authorize the City Manager to enter into a contract with Carolina Sunrock in the amount of \$317,855 for providing the City with its Estimated Annual Requirements for Asphaltic Concrete; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:52

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p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: BID – ESTIMATED ANNUAL REQUIREMENTS FOR AGGREGATES - CAROLINA SUNROCK CORPORATION

MOTION by Council Member Stith seconded by Council Member Catotti to accept the bid from Carolina Sunrock Corporation in the amount of \$263,220 for providing the City with its Estimated Annual Requirements for Aggregates;

To authorize the City Manager to enter into a contract with Carolina Sunrock in the amount of \$263,220 for providing the City with its Estimated Annual Requirements for Aggregates; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: BID REPORT – JUNE 2006

MOTION by Council Member Stith seconded by Council Member Catotti to receive a report and to record into the minutes the following bids which were acted upon by the City Manager during the month of June 2006 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

CITY OF DURHAM NORTH CAROLINA

July 13, 2006

MEMO TO: Patrick Baker, City Manager

THROUGH: Kenneth C. Pennoyer, Finance Director

FROM: Joseph W. Clark, Purchasing Manager

SUBJECT: Bid Report – June 2006

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of June 2006.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

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1. Bid: 3M Traffic Sign Roll Goods

Purpose of Bid: To provide the Traffic Sign Shop with sign making materials

Comments:

Opened: May 19, 2006

Bidders:	Korman Signs, Inc.	* \$16,234.65
	Richmond, VA	
	Signs and Blanks, Inc.	\$16,549.67
	Akron, OH	
	Osburn Associates, Inc.	\$16,562.85
	Logan, OH	
	Hall Signs, Inc.	\$16,931.43
	Bloomington, IN	
	3M	\$17,382.18
	Minneapolis, MN	
	Municipal Supply & Sign Co.	\$17,401.45
	Naples, FL	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	49		# Black Males	13	27%
Total # Females	13	27%	# White Males	20	41%
Total # Males	36	73%	# Other Males	3	5%
			# Black Females	1	2%
			# White Females	12	25%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

2. Bid: DATA Bus Route Maps

Purpose of Bid: To provide the Public Works/Transportation Division with DATA bus route maps

Comments:

Opened: May 26, 2006

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Bidders:	PBM Graphics, Inc. Durham, NC	*\$14,008.00
	Cary Printing Morrisville, NC	\$15,802.00
	Finch's Copy Center Durham, NC	\$17,334.90
	Graphics Ink Durham, NC	\$18,186.00
	Sir Speedy Durham, NC	\$18,676.00
	Ad Resources, Inc. Durham, NC	\$19,197.00

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	809		# Black Males	60	8%
Total # Females	219	27%	# White Males	459	57%
Total # Males	589	73%	# Other Males	70	9%
			# Black Females	18	2%
			# White Females	172	21%
			# Other Females	29	3%

The SDBE Data Base was used in the solicitation of bids for this item.

3. Bid: Two Skid Mounted Sewer Cleaners

Purpose of Bid: To provide the Water & Sewer Maintenance Division with two Rapid Response Sewer Cleaners.

Comments:

Opened: May 30, 2006

Bidders:	Bruder/Sharpe, Inc. Madison, NC	* \$72,962.00
	U. S. Jetting Alpharetta, GA	\$73,900.00

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

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Total Workforce	5		# Black Males	0	0%
Total # Females	1	20%	# White Males	4	80%
Total # Males	4	80%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	1	20%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

4. Bid: Repair Damaged Electrical Duct Bank at the Brown WTP

Purpose of Bid: To repair and install all wiring in the electrical duct bank at the Brown WTP.

Comments:

Opened: June 1, 2006

Bidders:	Harris Bros. Electric	*\$37,000.00
	Durham, NC	
	King Bros. Electric	\$38,100.00
	Durham, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	29		# Black Males	2	6.90%
Total # Females	3	10.3%	# White Males	16	55.2%
Total # Males	26	89.7%	# Other Males	8	27.6%
			# Black Females	0	0%
			# White Females	3	10.3%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

5. Bid: Estimated Annual Requirements for Thermoplastic Pavement Marking Material

Purpose of Bid: To provide Public Works/Transportation Division with their annual usage of Thermoplastic Pavement Marking Material (132,000 lbs/Yellow and 88,000 lbs/White)

Comments:

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Opened: June 1, 2006

Bidders: Crown Technology *\$80,784.00
Woodbury, GA
DOBCO \$81,917.00
Manchester, GA
Swarco, Industries \$88,000.00
Columbia, TN
Matlack Sales & Mktg. \$103,180.00
Fayetteville, NC

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	44		# Black Males	9	20%
Total # Females	6	14%	# White Males	20	46%
Total # Males	38	86%	# Other Males	9	20%
			# Black Females	1	03%
			# White Females	5	11%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

6. Bid: Re-Upholstery Service for Chairs

Purpose of Bid: To re-upholster chairs in City Hall Council Chambers

Comments: The General Services Department handled this bid and only one quote was received.

Opened: June 2, 2006

Bidders: Doug Middleton Assoc., Inc. *\$15,895.00
Weddington, NC

*Awarded based on: ☐ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	3		# Black Males	1	33.3%
Total # Females	1	33%	# White Males	1	33.3%

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Total # Males	2	67%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	1	33.3%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

7. Bid: Replace and/or Repair four built-up Roofs

Purpose of Bid: Replace and/or Repair four built-up Roofs at various Water Management facilities

Comments:

Opened: June 12, 2006

Bidders:	Baker Roofing Company	* \$38,198.00
	Raleigh, NC	
	Pickard Roofing Company	\$39,630.00
	Durham, NC	
	Owens Roofing, Inc.	\$47,415.00
	Raleigh, NC	
	CFE, Inc.	\$71,329.00
	Apex, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	677		# Black Males	31	5%
Total # Females	37	5%	# White Males	145	21%
Total # Males	640	95%	# Other Males	464	68%
			# Black Females	2	1%
			# White Females	28	4%
			# Other Females	7	1%

The SDBE Data Base was used in the solicitation of bids for this item.

8. Bid: Contract for Oshkosh Truck Equipment Parts

Purpose of Bid: To enter into a two-year firm price agreement for Oshkosh brand Truck Equipment Parts

Comments: The Oshkosh Truck Corporation is the sole regional source for Oshkosh brand Truck Equipment Parts

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Opened: June 16, 2006

Bidders: Oshkosh Truck Corporation * \$25,000.00
East Granby, CT

*Awarded based on: _____ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	431		# Black Males	8	2.0%
Total # Females	62	14%	# White Males	350	81.0%
Total # Males	369	86%	# Other Males	11	3.0%
			# Black Females	5	1.2%
			# White Females	54	12.0%
			# Other Females	3	0.8%

The SDBE Data Base was used in the solicitation of bids for this item.

9. Bid: Contract for Volvo/Autocar Truck Parts

Purpose of Bid: To enter into a two-year firm price agreement for Volvo/Autocar Truck Parts

Comments: Central Carolina Trucks, Inc., is the sole regional source for Volvo/Autocar Truck Parts brand parts, sales, and service.

Opened: June 16, 2006

Bidders: Central Carolina Trucks, Inc. * \$36,000.00
Kernersville, NC

*Awarded based on: _____ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	78		# Black Males	6	8%
Total # Females	16	20%	# White Males	51	65%
Total # Males	62	80%	# Other Males	5	6%
			# Black Females	2	3%
			# White Females	14	18%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

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10. Bid: Misc. Stationary Building Ladders

Purpose of Bid: To provide the Water Management Department with Stationary Building Ladders

Comments: Carbis, Inc. did not quote the ladders F.O.B. Durham (with shipping costs included in their bid price). F.S. Industries is the lowest responsive bidder, meeting all specifications and bid requirements.

Opened: June 16, 2006

Bidders:	Carbis, Inc. (did not meet specifications)	\$11,156.00
	Florence, SC	
	F.S. Industries	* \$11,359.15
	Providence, RI	
	Thompson Fabricating	\$16,172.28
	Tarrant, AL	

*Awarded based on: _____ Low Bid X Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	57		# Black Males	0	0%
Total # Females	21	37%	# White Males	27	47%
Total # Males	36	63%	# Other Males	9	16%
			# Black Females	0	0%
			# White Females	20	35%
			# Other Females	1	2%

The SDBE Data Base was used in the solicitation of bids for this item.

11. Bid: Term contract for Ford OEM Parts

Purpose of Bid: To enter into a one-year firm price agreement for Ford OEM Parts

Comments: The estimated value of this contract is \$95,000.00.

Opened: June 16, 2006

Bidders:	Crossroads Ford, Inc.	* Cost + 6%
	Cary, NC	
	University Ford, Inc.	Cost + 10%
	Durham, NC	

*Awarded based on: _____ Low Bid X Other (See Comments)

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WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	200		# Black Males	26	13%
Total # Females	40	20%	# White Males	130	65%
Total # Males	160	80%	# Other Males	4	2%
			# Black Females	5	2%
			# White Females	35	18%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

12. Bid: Leica Geosystems Surveying Equipment

Purpose of Bid: To provide the Public Works Department with surveying equipment

Comments:

Opened: June 16, 2006

Bidders:	Earl Dudley Associates, Inc.	* \$44,685.00
	Charlotte, NC	
	Leica Geosystems	\$54,085.00
	Norcross, GA	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	39		# Black Males	1	3%
Total # Females	11	28%	# White Males	27	69%
Total # Males	28	72%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	1	25%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

13. Bid: Term Contract for Parker Hose & Fittings

Purpose of Bid: To enter into a two-year firm price agreement for Parker brand hose & fittings

Comments: The estimated value of this contract is \$60,000.

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Opened: June 16, 2006

Bidders: Carolina Rim & Wheel Company
Fayetteville
Cross Hose & Fittings
Raleigh, NC

* List price minus 75%

List price minus 70%

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	12		# Black Males	2	17%
Total # Females	1	8%	# White Males	9	75%
Total # Males	11	92%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	1	8%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

14. Bid: One Used Asphalt Compactor

Purpose of Bid: To provide the Public Works Department with a Compactor

Comments:

Opened: June 22, 2006

Bidders: Linder Industrial Machinery
Raleigh, NC
Rish Equipment Company
Bluefield, WV

* \$36,225.00

\$40,200.00

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	11		# Black Males	2	18%
Total # Females	1	9%	# White Males	8	73%
Total # Males	10	91%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	1	9%
			# Other Females	0	0%

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The SDBE Data Base was used in the solicitation of bids for this item.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

JWC:lm

**SUBJECT: ANNUAL SUPPORT AND LICENSE AGREEMENT FOR MUNIS
SOFTWARE - TYLER TECHNOLOGIES/MUNIS**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute the Annual Support and License Agreement with Tyler Technologies/ MUNIS in the amount of \$133,268.01 for the use and support of the MUNIS ERP software for a period of one year; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: STREET CLOSING – SET HEARING ON THE CLOSING OF 179.69
LINEAR FEET OF AN UNNAMED ALLEY ALONG NORTH ROXBORO
STREET (SC06-02)**

MOTION by Council Member Stith seconded by Council Member Catotti to adopt a Resolution to set a public hearing on the proposed closing of 179.69 linear feet of an unnamed alley along North Roxboro Street for September 5, 2006 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9377

**SUBJECT: STREET CLOSING – SET HEARING ON THE CLOSING OF 255.05
LINEAR FEET OF GEORGE STREET (SC06-05)**

MOTION by Council Member Stith seconded by Council Member Catotti to adopt a Resolution to set a public hearing on the proposed closing of 255.05 linear feet of George Street for September 5, 2006 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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Resolution #9378

SUBJECT: MAJOR SITE PLAN – GITHENS MIDDLE SCHOOL (D05-432)

MOTION by Council Member Stith seconded by Council Member Catotti to approve a major site plan for Githens Middle School, submitted by DTW Architects & Planners, Ltd., on behalf of Durham Public Schools, to construct a 589 square foot restroom facility and other site improvements on a 38.939 acre site, zoned RS-20 and F/J-B, with a request for payment in lieu of 300 linear feet of sidewalk along Chapel Hill Road, the site is located on the north side of Old Chapel Hill Road, east of Watkins Road, PINs: 0709-02-58-9937, 0709-02-59-1995 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN – TRIANGLE ORTHOPAEDICS PARKING LOT ADDITION (D06-055)

MOTION by Council Member Stith seconded by Council Member Catotti to approve a major site plan for Triangle Orthopaedics parking lot addition, submitted by Stewart Engineering, Inc., on behalf of Triangle Orthopaedics Real Estate Group, LLC, to provide 68 additional parking spaces to an existing parking lot for use by a medical facility on a 0.56 acre portion of a 6.24 acre site, zoned OI (D) and F/J-B, the site is located on the west side of Ben Franklin Boulevard, south of William Penn Plaza, and north of Carver Street, PIN: 0833-13-04-1343 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN AND PRELIMINARY PLAT – WOOD CHAPEL CLUSTER SUBDIVISION (D05-745)

MOTION by Council Member Stith seconded by Council Member Catotti to approve a major site plan and preliminary plat for “Wood Chapel Subdivision,” submitted by Brunssen Engineering Services, P.A., on behalf of Bill Clark Homes of Raleigh, for 43 single-family residential cluster lots and related infrastructure on a 13.059 acre portion of a 23.316 acre site zoned RS-10, the property is located south of Angier Avenue, east of Glenco Road, PIN 0759-01-06-1474 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: MAJOR SITE PLAN – JOHNSON KIA AT SOUTHPOINT-PHASE I (D06-127)

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MOTION by Council Member Stith seconded by Council Member Catotti to approve a major site plan for “Johnson KIA at Southpoint-Phase I” submitted by Haden Stanziale, on behalf of Reveille LLC, to construct a 4,256 square foot vehicle sales office with 1.04 acres of parking/display area on 1.82 acres of a 7.96 acre tract, zoned GC (D), MTC, and F/J-B, the site is located at the northeast corner of Southpoint Auto Park Boulevard and Johnson Victory Circle, PINs 0718-01-35-7687, 0718-01-35-9717 and 0718-01-45-2853 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: TECHNICAL CORRECTION ORDINANCES FOR ZONING MAP
CHANGE CASES – Z05-32 – HARMONY ROAD II AND Z06-03 – STATE
EMPLOYEES CREDIT UNION**

MOTION by Council Member Stith seconded by Council Member Catotti to adopt the technical correction ordinances for the approved zoning map change cases Z05-32 and Z06-03; where, for Z05-32, the property was taken out of RS-20 and RS-10 and placed the same in and establishing same as PDR 2.710, and Z06-03 where the property was taken out of RS-20 and placed the same in and establishing same as OI(D) was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

The site for Z05-32 is located on the north and south of Harmony Road between Sturbridge Drive, Kettering Drive and Cook Road. PINs: 0729-01-25-5105, -4105, -2184, -1133, -0462, -1493, -2484, -3454, -4464, -5465, -6415, -7203, -8233, -7176, -8110, -7096, 0729-01-15-9162, -8122, -6172, -5181, -5102, -4101, -2181, -1121, -0398, -1389, -2480, -3480, -5411, -6441, -7432, -8432, -9412, -9463, 0729-03-14-2495, 0729-03-04-8485, -1473, -5456, 0729-01-05-5054, 0719-02-95-9065, 0719-04-94-9818, -9712, -9518, -9414, -9300, -9106, -9002, -7003, -7107, -7311, -7405, -7713, -7817, 0729-04-93-9808, 0719-02-95-7024]

The site for Z06-03 is located at 2121 Guess Road on the east side of Guess Road between Victory Boulevard and Prison Camp Road. PINs: 0824-03-01-8863 and 0824-03-01-9678.

Ordinance #13294 - 13295

**SUBJECT: SETTING PUBLIC HEARINGS TO CONSIDER ORDERING
PETITIONED IMPROVEMENTS – FORGE ROAD AND LOFTIN
STREET**

MOTION by Council Member Stith seconded by Council Member Catotti to accept a Certificate of Sufficiency from the Manager of Engineering for the following petitions; and

To adopt a resolution setting a public hearing for August 21, 2006, to consider ordering each of the following improvements was approved at 7:52 p.m. by the following vote: Ayes: Mayor

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Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Curb, Gutter and Paving, Water and Sewer Laterals on Forge Road from the West Property Line of PIN 0728-01-26-4239 to the East Property Line of PIN 0728-01-46-0157; and

Water Main on Loftin Street from Fletchers Chapel Road north to Cheek Road.

SUBJECT: TECHNICAL CORRECTION TO BUDGET/PARRISH STREET GRANT PROJECT ORDINANCE

To adopt the City of Durham and the U.S. Department of Housing and Urban Development Initiative – Special Projects – Fiscal Year 2006 Parrish Street Revitalization Grant Project Ordinance.

Note: This item was approved at the July 20, 2006 Work Session with a vote of 6/0. Ordinance #13292

SUBJECT: WORKFORCE INVESTMENT ACT GRANT PROJECT ORDINANCE AMENDING ORDINANCE #13184

To adopt an Ordinance Amending Grant Project Ordinance #13184 to make corrections in WIA funding allocations; and

To add Incumbent grant funds for the Office of Economic and Employment Development WIA budget for a new total \$1,755,375.

Note: This item was approved at the July 20, 2006 Work Session with a vote of 6/0. Ordinance #13293

SUBJECT: U.S. DEPARTMENT OF LABOR (DOL) HURRICANE REINTEGRATION GRANT PROJECT ORDINANCE

MOTION by Council Member Stith seconded by Council Member Catotti to adopt a Grant Project Ordinance in the amount of \$98,000 for the Hurricane Reintegration Project was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13296

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SUBJECT: OPPORTUNITY LOAN PROGRAM LOAN APPROVAL OF \$30,000 FOR SAMUEL AND SON BARBERSHOP, LLC/ SAMUEL JENKINS AT 2110 ANGLIER AVENUE - SELF HELP CREDIT UNION

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute the Non-Recourse Loan Participation Agreement with Self Help Credit Union not to exceed \$30,000 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: BUSINESS LOAN REPORT FOR MAY 2006 – SMALL BUSINESS LOANS AND DOWNTOWN AND COMMERCIAL REVITALIZATION LOAN REPORT

MOTION by Council Member Stith seconded by Council Member Catotti to accept the Business Loan Report for May 2006 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: JANITORIAL SERVICE CONTRACT - MOTHER/DAUGHTER CLEANING SERVICE - FIRE DEPARTMENT ADMINISTRATION OFFICES

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a three-year janitorial contract with Mother/Daughter Cleaning Service, Durham, North Carolina in the amount of \$65,200 for the Fire Department Administration offices; and

To authorize the City Manager to make changes to the contract prior to execution provided that there is no increase in the cost or decrease in the services provided by the contract approved by the City Council was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: JANITORIAL SERVICES CONTRACTS AT DISTRICTS 1, 3 AND 4 POLICE SUBSTATIONS - QUALITY JANITOR SERVICE, INC. - CB & H CONTRACTING, INC.

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a contract with Quality Janitor Service, Inc. for custodial cleaning of the District 1 substation in the amount of \$41,799.36;

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To authorize the City Manager to enter into a contract with CB & H Contracting, Inc. for custodial cleaning of the District 3 substation in the amount of \$40,729.08;

To authorize the City Manager to enter into a contract with Quality Janitor Service, Inc. for custodial cleaning for District 4 substation in the amount of \$31,343.52;

To authorize the City Manager to modify the agreements before execution provided that the modifications do not increase the dollar amounts of the agreements and the modifications are consistent with the general intent of the existing version of the agreements approved by the City Council;

To authorize the City Manager the authority to execute contract extensions for an additional two years provided all contract requirements have been met prior to allowing an extension was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: PROPOSED SALE OF PROPERTY AT 6408 AND 6412 FAYETTEVILLE ROAD PARCEL ID # 149516- 6408 FAYETTEVILLE ROAD (CITY TRACT 2002) PARCEL ID # 149523- 6412 FAYETTEVILLE ROAD (CITY TRACT 2003) - KAMALAKAR VENKANNAGARI AND VAMSHEE PADURU

MOTION by Council Member Stith seconded by Council Member Catotti to reject the offer of \$401,000 from Kamalakar Venkannagari and Vamshee Paduru and remarket the property for \$500,000 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: PROFESSIONAL SERVICES AGREEMENT FOR THE DESIGN OF RENOVATIONS TO THE LYON PARK FAMILY LIFE CENTER AND THE OLD LYON PARK RECREATION CENTER - DTW ARCHITECTS AND PLANNERS LTD

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a contract with DTW Architects and Planners Ltd in an amount not to exceed \$84,360;

To authorize the City Manager to make changes to the agreement before executing it if the changes do not increase the fee to be paid by the City and do not decrease the goods and services to be provided to the City; and

To establish a project contingency in the amount of \$10,000; and

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To authorize the City Manager to negotiate and execute change orders on the DTW Architects and Planners Ltd. agreement provided the total cost of services does not exceed \$94,360 was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: CHAPTER 14 PERSONNEL, CITY CODE REVISIONS

MOTION by Council Member Stith seconded by Council Member Catotti to adopt the following amendment to Chapter 14 of the Durham City Code was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Chapter 14 Personnel, City Code Revisions (Revised Motion)

To adopt the following amendment to Chapter 14 of the City Code:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DURHAM:

Section 1. Chapter 14 of the City Code is hereby amended as follows:

By deleting Sections 14-2 through 14-9, 14-12, and 14-13 in their entirety and replacing said sections with 14-2 through 14-9, 14-12 and 14-13 as printed in the agenda materials.

Section 2. All other sections of Chapter 14 not specifically identified for amendment shall continue in full force and effect.

Section 3. This amendment to Chapter 14 shall be effective upon passage.

SUBJECT: ON-CALL VENDORS' LIST FOR TEMPORARY STAFFING SERVICES

MOTION by Council Member Stith seconded by Council Member Catotti to approve the On-call List of Vendors for Temporary Staffing Services was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Randstadt	Davis Technical Staffing and Consulting
Temps to the Rescue	Act 1
Labor Finders	TGX Development, LLC
Ultimate Staffing Services	Power Source International Solutions, Inc
Adecco Services	Mantel Solutions, Inc
Integrity	DAC
Express Personnel Services	Coast to Coast
Avant	

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SUBJECT: 2005 ANNUAL REPORT OF THE DURHAM ENVIRONMENTAL AFFAIRS BOARD

MOTION by Council Member Stith seconded by Council Member Catotti to receive the 2005 Annual Report of the Environmental Affairs Board was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: CONTRACT FOR DOMESTIC VIOLENCE PROJECT AND COMMUNITY LIFE COURT - ADMINISTRATIVE OFFICE OF THE COURTS [AOC]

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a contract between the City of Durham and the Administrative Office of the Courts under which the Administrative Office of the Courts will expend City funds to continue to support salary and benefits for a judge to hear domestic violence cases in the community and a victim legal assistant; and for equipment, training and travel expenses for these positions in the amount of \$93,700; and

To authorize the City Manager to modify the contract before execution, provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: INTERLOCAL AGREEMENT BETWEEN THE CITY OF DURHAM AND DURHAM COUNTY FOR LOCAL MATCHING FUNDS FOR FEDERAL TRANSPORTATION PLANNING GRANTS

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute an Inter-local Agreement between the City of Durham and Durham County for Local Matching funds for Federal Transportation Planning Grants; and

To authorize the City Manager to make modifications to the agreement provided that the modifications do not increase the City's financial obligation and are consistent with the agreement approved by the City Council was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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**SUBJECT: PROFESSIONAL ENGINEERING SERVICES FOR THE WATER
TREATMENT FACILITIES IMPROVEMENTS PROJECT - HAZEN AND
SAWYER**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a contract with Hazen and Sawyer for engineering services in an amount not to exceed \$152,650 for the Water Treatment Facilities Improvements Project; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 7:52 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: CODE ENFORCEMENT AND MINIMUM HOUSING CODE
ACTIVITIES**

To receive a presentation on the review of the Minimum Housing Code.

Note: A presentation was received at the July 20, 2006 Work Session.

**SUBJECT: REPORT FROM PARSONS BRINCKERHOFF QUADE & DOUGLAS,
INCORPORATED ON THE APEX STREET BRIDGE**

To receive a presentation on the Apex Street Bridge Report.

Note: A presentation was received at the July 20, 2006 Work Session.

SUBJECT: HISTORIC PRESERVATION SOCIETY OF DURHAM

To receive comments from John Compton regarding penalties assigned to 311 N. Elizabeth Street for code compliance issues.

Note: Comments were received at the July 20, 2006 Work Session.

SUBJECT: BIRCHWOOD HEIGHTS COMMUNITY

To receive comments from Ann Atwater regarding Birchwood Heights Community Center.

Note: Comments were received at the July 20, 2006 Work Session.

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SUBJECT: MIRTA MIHOVILOVIC

To receive comments from Mirta Mihovilovic on advantage of improving public transportation services for the end user.

Note: Comments were received at the July 20, 2006 Work Session.

[GENERAL BUSINESS AGENDA]

SUBJECT: DURHAM AREA TRANSIT AUTHORITY - APPOINTMENT

To appoint a citizen to fill one (1) vacancy on the Durham Area Transit Authority for a Regular Member with the term to expire on March 1, 2008.

MOTION by Council Member Clement seconded by Council Member Stith to direct the City Clerk to re-advertise vacancy on the Durham Area Transit Authority for a regular member for 30 days [month] was approved at 7:55 p.m. by the following vote: Ayes: Council Members Catotti, Clement, Stith and Woodard. Noes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Member Brown. Absent: None.

SUBJECT: CITIZENS ADVISORY COMMITTEE – APPOINTMENT

To appoint a citizen to fill one (1) vacancy on the Citizens Advisory Committee with the term expiring on June 30, 2009.

City Clerk Gray informed Council that a request was made at the Work Session to re-advertise this item and to place this item on the General Business Agenda.

MOTION by Council Member Stith seconded by Council Member Clement to re-appoint Kelly Paylor to fill one vacancy on the Citizens Advisory Committee with the term expiring on June 30, 2009 was approved at 7:56 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: STRATEGIC PLAN TO ADDRESS GANGS

Police Chief Chalmers provided background information on this item.

Minister Paul Scott, representing Messianic African Nation, raised a concern with the cost to research gangs. He noted what Durham needs to stop the gang problem is good home remedies. He urged Council to let the community come together and make a solution to stop the gangs and stated our young people have nothing to do in the City of Durham.

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Delores Eaton, representing Old Hillside Neighborhood Association, stated she opposes the use of federal funds to assess gangs and she would give Durham a plan for free to ameliorate the problem of gangs.

Mayor Bell noted the cost to the City is \$30,000 since the County would be reimbursing the City \$30,000. The Mayor requested information on the total number of gangs and gang members in the City of Durham, including the County to-date and deliverables.

Mayor Pro Tempore Cole-McFadden expressed concern that there is no local participation to do this assessment. She asked staff why NCCU was not invited to be a part of this project.

Chief Chalmers made comments on the conversation he had with NCCU. He noted they indicated that Dr. Howell is the person that the City should contact to accomplish this task. He noted that he would be meeting with NCCU to discuss more in detail their involvement with this initiative.

Mayor Pro Tempore Cole-McFadden asked staff to provide a report on what is the caseload of the 30-member gang unit—how many gang members are they working with.

Chief Chalmers noted the gang unit is not assigned a case load or a number. Basically, they are involved in a number of activities to curtail or alleviate gang activity.

Council Member Stith noted he cannot support this item since \$90,000 was spent on a completion of a community-wide assessment with the scope being juvenile involvement in gang activity -- August 14, 2001, etc. He noted \$90,000 was spent in 2001 by the City to do basically what they are doing again. He made a suggestion that the \$60,000 be spent on enforcement/prevention programs instead of another study.

Victoria Peterson, representing Triangle Rebuilding Citizens, raised a concern with the study. She noted Durham does not have a gang problem, but a lot of African American males that are unskilled and untrained. She noted a study is needed on why there are so many black men in this community without jobs and without skills.

Council Member Woodard asked staff what are the deliverables/outcomes the research team will bring back as a result of study.

Chief Chalmers noted every issue raised will be addressed through this assessment to include at-risk populations and what is leading individuals into gangs. He said this study will give them an opportunity to assess what they are doing, whether it is working and if not, what else could be done.

James Howell provided details about the comprehensiveness of this assessment. He noted the identification of the number of gangs, gang members and the number of at-risk youth is Part 1 of the assessment. Secondly, Part 2 of the assessment will involve the community stakeholders to get their perceptions on the gang problem. He said the numbers and the crime data only tell us part of the picture of the gang problem and in addition community perceptions from all sectors of

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the community should be added. Then he noted Part 3 is an assessment of the adequacy of the current responses to the gang problem, the programs and the strategies, the entire continuum being used in Durham in light of that assessment that has been accumulated in the first two stages. He stated this entire process will empower the community to broadly address its own gang problem and from his observation that is the major thing missing. He stated there is a lot of knowledge, there is a lot of awareness of the gang problem and a lot of good programs, but they are not organized as highly as they can be and targeted as much as they can be on the nature of the gang problem so this effort will be a major contribution. He noted this broad process of the assessment was developed by the federal office of Juvenile Justice and Delinquency Prevention involving up to 20 communities around the country.

Relative to the deliverables, Dr. Weisel noted it's important to recognize that the deliverables will be the on-going involvement with the Durham Crime Cabinet and RBA—Results Based Accountability Committee by presenting to them and Council updates on what our findings are and findings that are actionable that you can do something with now. Dr. Weisel stated they do not want to wait until 12 months from now and give the City a report and suggest what they could have done six or eight months ago. He noted our approach to this assessment will be hands on, a process that will give you feedback and a professional guidance. Finally, Dr. Weisel noted the final accord will give you a benchmark and road map for how to measure effectiveness in the future.

Council Member Woodard asked Dr. Howell how would the City know if they received \$60,000 worth when the report is finished.

Dr. Howell noted there will be a dramatic change in the way Durham addresses the gang problem, different sectors of the community will be involved, ownership in the definition of the gang problem and ownership in the solutions that the community arrives at given a better understanding of the gang problem, a more targeted effort and much higher likelihood of success.

Council Member Woodard asked Dr. Howell will there be community forums.

Dr. Howell replied yes. He made comments on focus groups, community meetings, surveys that will be done over a short-term period that will be adequate to solicit the perceptions of the gang problem.

Dr. Weisel noted they haven't started to work with Durham, but want to build on what the City has already done and what's in place.

Police Chief Chalmers gave an explanation of asset forfeiture funds stating it's monies that the Police Department receives due to drug seizures and seizures of properties, etc. in collaboration with the FBI Task Force and other operations that they work with. In return, they receive monetary awards for the Police Department to use to further its mission.

Council Member Woodard asked if the City did not fund this study what else could the \$30,000 be used for.

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Police Chief Chalmers noted staff would look for things that could not get approved through the budget, unmet needs.

Several Council Members made comments in support of this item.

Council Member Stith raised a concern with the amount of funds [\$150,000 = \$90,000/\$60,000] used for studying this issue when the City could be using it to extend Parks & Recreation hours, provide more programming and more resources to go after individuals harming children in the community.

Mayor Pro Tempore Cole-McFadden asked staff about the engagement of gang members in this assessment.

Police Chief Chalmers noted gang members have been engaged on a regular basis through the Project Safe Neighborhood initiative. He noted he can as in the past fill the room with individuals who will be willing to come in to talk about what's going on in the community and why.

Mayor Bell made comments in support of this item. The Mayor noted this is a request by the Police Chief and the Sheriff's Office to provide them with another tool in dealing with gangs in this community.

Council Member Catotti noted this issue will help determine what we are doing and is it working.

MOTION by Council Member Clement seconded by Council Member Catotti to authorize the use of federal and state asset forfeiture funds in an amount up to \$60,000 to hire James C. ("Buddy") Howell and Deborah Lamm Weisel as consultants to conduct a comprehensive Gang Assessment of Durham County; and

To authorize the City Manager to execute a contract between James C. ("Buddy") Howell and Deborah Lamm Weisel to assess the gang problem in the City and County of Durham was approved at 8:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

SUBJECT: DURHAM PUBLIC SCHOOLS

To adopt a Resolution on Cohesive Cooperation for the Education of Youth in Durham.

Note: By a vote of 7/0, the City Council deferred this item until a presentation can be presented to the School Board/Superintendent at the request of the City Manager.

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[GENERAL BUSINESS AGENDA]

SUBJECT: ROWENA AVENUE – FROM NORTH PROPERTY LINE OF TAX MAP 370-2-2 TO NORTH PROPERTY LINE OF TAX MAP 367-3-3 – MINI ASSESSMENT ROLL

Engineer Manager Lee Murphy noted staff is still working with the property owners on this assessment and is recommending that the public hearing be continued for all properties without further advertising and refer those assessments to the September 7, 2006 City Council Work Session.

Mayor Bell opened the public hearing.

a. Property of Jon P. Briggs

To find that the property of Jon P. Briggs identified as 3205 Rowena Avenue, PIN #0840-05-28-0641, has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,175.

To find that the property of Jon P. Briggs identified as 3203 Rowena Avenue, PIN #0840-05-28-0626, has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,175.

To find that the property of Jon P. Briggs identified as 3137 Rowena Avenue, PIN #0840-05-28-2985, has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,175.

To find that the property of Jon P. Briggs identified as 3135 Rowena Avenue, PIN #0840-05-18-9880, has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,283.

b. Property of Brian K. Ross

To reconsider the assessment against the property of Brian K. Ross identified as 3209 Rowena Avenue, PIN #0840-05-28-0561, and to find that the property has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,175.

c. Property of Milton Moore

To reconsider the assessment against the property of Milton Moore identified as 3211 Rowena Avenue, PIN #0840-05-28-0476, and to find that the property has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,175.

To reconsider the assessment against the property of Milton Moore identified as 3201 Rowena Avenue, PIN #0840-05-28-0710, and to find that the property has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,175.

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d. Property of Micole Enterprises, LLC

To reconsider the assessment against the property of Micole Enterprises, LLC, identified as 3131 Rowena Avenue, PIN #0840-05-18-9955, and to find that the property has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,175.

To reconsider the assessment against the property of Micole Enterprises, LLC, identified as 3129 Rowena Avenue, PIN #0840-05-19-9040, and to find that the property has benefited from the sewer main improvement and to confirm the assessment in the original amount of \$1,057.

MOTION by Council Member Catotti seconded by Council Member Woodard to continue the public hearing on this item without further advertising and to refer assessments to the September 7, 2006 City Council Work Session was approved at 8:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: MERCHANDISE-BASED RETAIL INCENTIVE GRANT TO NOBIS 1 VENTURE, INCORPORATED

Chris Dickey, with the Office of Economic & Employment Development, made comments on this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to receive comments on the Merchandise-Based Retail Incentive Grant to Nobis 1 Venture, Inc;

To authorize the City Manager to execute a contract with Nobis 1 Venture, Inc. for \$7,500.00; and

To authorize the City Manager to make the necessary changes to the contract before executing it as may be needed so long as they do not increase the contract amount nor alter the completion date of the contract was approved at 8:44 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: PLAN AMENDMENT (A06-08), 4510-4520 FAYETTEVILLE STREET – BETWEEN MARTIN LUTHER KING, JR. PARKWAY AND HANSON ROAD – KIMLEY-HORN AND ASSOCIATES FOR C C HOMESTEAD LIMITED PARTNERSHIP, MORNING STAR BAPTIST CHURCH

To receive public comments on the 4510-4520 Fayetteville Street Plan Amendment; and

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To adopt a resolution to change the Land Use designation on the Future Land Use Map of the Durham Comprehensive Plan from Low Density Residential (4 DU/Ac or less) to Commercial.

Staff Recommendation: Approval

Planning Commission Recommendation: Denial, 10-3, based on traffic impact and incompatibility with the adjacent uses.

City/County Planning Director Frank Duke briefed Council on the plan amendment for 4510-4520 Fayetteville Street located at the intersection of Fayetteville Street and Martin Luther King, Jr. Parkway. He noted the request is to change the land use designation of just six acres of land in the suburban tier from its current designation of low density residential [no more than 4 dwelling units per acre] to a proposed designation of commercial. He made comments on the applicant's justification noting this request is justified based on a closer examination of the land use pattern in the area that was undertaken at the time of the Comprehensive Plan noting in particular that the other three quadrants of this intersection are all designated for non-residential uses so this one quadrant located at this intersection has a low density single-family residential designation. He noted staff has reviewed the justification and agree that the applicant is correct given the detailed examination of the proposed land uses in the area, the existing land uses in the area-- the current designation of low-density residential is not appropriate. He noted this request is consistent with the Comprehensive Plan, compatible with the existing land use pattern and the designation in the future land uses with the restrictions identified in the unified development ordinance that would govern development pursuant to a rezoning that might follow this change and would not create adverse impacts on the adjacent areas of the City. He stated based on the request meeting the criteria for plan amendments and being justified, the Planning Department is recommending approval. He noted the Planning Commission recommended denial based on traffic impacts and incompatibility with adjacent uses.

Mayor Bell opened the public hearing.

Mayor Bell disclosed that he works for UDI/CDC who has property across the road from this property that is under consideration. The Mayor noted he nor UDI will not receive any financial benefit from this property.

City/County Planning Director Frank Duke made comments on the public contact regarding this item. He noted he received communication from 620 people in support and 264 in opposition to this request.

Sal Musarra, representing the applicant, spoke in support of the zoning map change. He noted there has been an amazing amount of support from the public on this project and that in keeping with the planning practice, Comprehensive Plan, directives and guidelines-- this is an appropriate use looking at the changes in land uses that are occurring around this piece of property. Mr. Musarra noted they agree with 2.25 of the Comp Plan that it is desirable to have commercial development occur at these major nodes and to the north of this property there is currently in consideration a major project that will likely bring with it major roadway

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improvements that will benefit this project as well. This property is not marketable for a residential site and rather than have it be undeveloped or vacant--they think this commercial designation is appropriate. He noted at this time there is no specific user desired for the project. He noted there are roadway improvements in the works that will mitigate traffic from other developments, the size of this project is not likely to trip a traffic impact analysis, possible uses won't be traffic generated, but commercial uses that rely on pass-by traffic. He noted commercial use would be far more able to bear the cost of any additional roadway improvements beyond those already slated to happen in the area. He noted the approval of the land use amendment would not precipitate a negative environmental impact on the property, and at the development plan level the applicant would have to put measures in for storm water control and items that deal with environmental measures. He urged Council to support this request.

Yolanda Hall Long, of 4510 Fayetteville Road, spoke in support of this plan amendment. She noted she requested the land use amendment because of the hardship her family faced over the years with the property situated at the corner of MLK and Fayetteville Street. She noted because of the traffic in this area, this request is merited, commented on the opposition to this request, how long her family has own the property, and the option from the City of Durham -- a letter addressed to her mother for property purchased for the construction of Martin Luther King, Jr. Parkway through their backyard. She outlined why this site is not suitable for residential living, commented on previous conversations she had in 2004 to request that the site be brought into compatibility with the zoning of the other corners. She noted her interest is in the community and would not like to see anything that is not neighborhood friendly. She stated this site can be utilized to a higher and better use with the requested change that could benefit and serve the community and our city as this area continues to evolve and expand.

Mark Alkins, member of Morning Star Baptist Church, noted the church adjacent to this property is in support of this plan amendment.

Michael Hall, of 4510 Fayetteville Road, asked all supporters of this item to stand.

Christopher Shrensbury, of 717 Turmeric Lane, asked Council to deny this request. He noted the current traffic levels on Fayetteville Street from Martin Luther King south to Woodcroft Parkway are extremely overcrowded. Also, he asked Council to stop urban sprawl and stated while I understand the property owner's desire to make the most profit from the sell of this property, it will be families living nearby that will pay the price.

Tenita Philyaw-Rogers, of 726 Hanson Road, noted Hanson Road and the surrounding communities oppose the land use amendment change for the following reasons: 1) change from low-density residential to commercial introduces a long list of undesirable uses in a stable residential area; 2) development plan has very little detail and will open this parcel up to a long list of undesirable uses, such as a gas station, car wash, adult book store, etc. She urged Council to deny this request.

Jesse Burwell, 718 Hanson Road, spoke in opposition to this plan amendment raising concern with traffic, commercial creep and its impact on existing neighborhoods. He expressed concern that property owners did not contact neighborhood after a request from the Planning Commission

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to do so and noted an office building/complex would be more compatible for this site. He urged Council to vote no on the request to amend the Comprehensive Plan.

Bari Everitt, of 812 Turmeric Lane, made comments in opposition to the plan amendment. She shared two impressions given that she believed are incorrect: 1) all four corners, except for this one, are commercial on Martin Luther King and Fayetteville, but the truth is that there is just one where the proposed Lowe's site is, the other is owned by the church and Industrial Park. She noted her husband and her picked the Green Garden development to get away from the stores and commercial development: 2) 600 people are in favor of request and 200 opposing it, but it is the residents who live there that will have to suffer the effects of this.

Eric Perry, of 625 Hanson Road, noted Bay Point residents oppose the rezoning of this property since their children play out on Hanson Road. He noted Lowe's gave them a presentation that was approved, but have not heard anything at all regarding this plan. We cannot approve it unless we hear something.

Denise Hester, of 3526 Abercromby Drive, urged Council to deny this request since Council cannot consider something that does not exist at this point, made comments on the denial of this request by the Planning Commission, problematic uses, noted she finds the request to be inconsistent, expressed traffic concerns, there are no roadway improvements in the CIP, and the widening proposed by Lowe's will benefit them up to their entrance and not the community. She urged Council to consider the request of the residents who live closest to and are most impacted by this proposal and to deny this request.

Delores Eaton urged Council to deny this request. She stated she was disappointed with black institutional religious leadership not only in Durham, but in this country. She noted churches have gotten greedy.

Johnny Philyaw, 722 Hanson Road, stated he does not want anyone to come in to uproot the family and expressed concern with the Church wanting to sell their property. He asked Council to not let the community down.

Lisa Beach, a Bay Point Resident, expressed concern about the dangerous intersection at Fayetteville and Martin Luther King, Jr. Parkway for pedestrian and traffic impacts.

Aljeuron Williams, of 129 Masondale Avenue, spoke in opposition to this plan amendment. He made comments on the South Durham Plan noting that one section of this area needed to stay low-density residential as outlined in the Plan. He noted the commercial designation was given to the intersection of Fayetteville and Woodcroft and between all commercial development in South Durham is suppose to be a high density buffer that separates it from the low density area. He stated UDI has a natural built-in buffer, the proposed Lowe's will have a natural built-in buffer, anything on the other side of MLK will have a natural built-in buffer, but this corner does not have a built-in buffer because it wasn't suppose to have one. He urged Council to keep things the way they were set to be.

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Sal Musarra, representing the applicant, noted for clarification that early on in the process there was one community meeting held expressing a lot of concerns heard this evening. During the rezoning and the site/development plan process, the applicant intends to work closely with the community after we begin to craft the actual development plan. He noted during the next phase, they would get into much more detail regarding the specifics of the plan. Today, there are no tenants in mind for this site because they are simply looking at overall land use patterns. He stated roadway improvements will benefit this community beyond this site; the applicant will still have to mitigate traffic and do road improvements as indicated by staff and NCDOT for this project. He noted the applicant understands after they get into the development plan some of the details will be worked out, this plan does have a bit of the natural buffer to the south. He made comments on the stream buffer, noted there is an institutional use to the south which is an appropriate use in this location. He asked Council to support this request.

Yolanda Hall Long, stated support is not just coming from the church, but half from the church and half from the community. She made comments on the meeting held March 9 with Hanson Road residents, discussed the concerns and what they were planning to do. She noted this piece of property has been left totally isolated at this intersection and expressed concern with individuals commenting on the issue of profit which is not the case.

Mayor Bell closed the public hearing.

Council Member Brown stated he was disappointed that the applicant had only one meeting with the neighbors to discuss their concerns. He asked staff when will updated traffic counts be available.

City/County Planning Director Frank Duke noted the current counts on Fayetteville Road are three years old and come from NCDOT indicating capacity for this segment of the road and staff is anticipating revised counts from NCDOT sometime later this month.

Council Member Brown asked are there any additional improvements for this street.

City/County Planning Director Frank Duke noted there is absolutely nothing programmed other than what is directly associated with specific developments at this time.

City/County Planning Director Frank Duke outlined traffic patterns for office/institutional vs commercial.

Council Member Brown asked staff what would be the alternative for the applicant if this item is not approved.

City/County Planning Director Frank Duke stated staff's recommendation would be that the applicant withdraw the zoning case and resubmit with a different designation.

Mayor Pro Tempore Cole-McFadden noted her major concern had to do with the lack of engagement with the residents of that area. She asked the applicant to address why only one meeting was held and its location.

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Yolanda Hall Long, the applicant, stated the meeting was held at Morning Star Baptist Church and did not feel the need to meet anymore after she heard some of the comments that were made at that meeting—people thought she was going out for profit.

Council Member Catotti stated she made a suggestion to the applicants that they consider a deferral to bring back this plan amendment at the same time as the rezoning with a development plan which would allow for additional clarity, committed elements and intended uses that would have gone a long way to providing comfort for the surrounding community. She noted low-density residential may not be appropriate on that corner any longer, but share concerns of the community and residents living in the area and does not support commercial for this site at this time. She stated she strongly suggests to the applicants that they consider bringing the plan amendment back as a more appropriate land use designation such as office, multi-family and to sit down with the neighborhood and community and come up with something that people can fill comfortable with. In addition, she stated she will not be supporting the plan amendment as proposed.

Council Member Stith asked staff when will the rezoning on this issue come before Council.

City/County Planning Director Frank Duke noted Council could see this rezoning at the earliest a month and a half after the plan amendment or it could be four months. The issue that Council Member Catotti has raised is the issue that the Rules Committee of Council has suggested that Council change the rules to permit plan amendments and zoning cases to be brought at the same time.

City Attorney Blinder noted Council should follow its current policy for cases.

City/County Planning Director Frank Duke stated at the plan amendment stage, Council does not have any ability to deal with particular uses which is a concern that many of the area residents raised that the earliest it can be dealt with is through the zoning process. Mr. Duke noted the Rules Committee made a suggestion that there is a need to rethink the way they are dealing with plan amendments and rezoning issues at present because we are trying to create two separate issues and they become linked together.

Council Member Stith asked staff to address the uses.

City/County Planning Director Frank Duke noted some of the uses would not be possible for example, an adult bookstore, some would not be permitted based on other provisions of the ordinance, others could be done, example a gas station. He stated if Council approves this item tonight that does not preclude you from saying no on the subsequent rezoning--they are really two separate issues.

Council Member Stith asked the applicant what would be the impact of having a deferral to allow additional discussion with community or shifting rules linking the plan amendment with the rezoning issue.

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Yolanda Hall Long, the applicant, noted a deferral would not be a problem and made comments in support of meeting with the neighbors to see what would be best suited for this site.

Sal Musarra, representing the applicant, noted he looks forward to having discussions with the neighbor.

Discussion was held on deferral of this item.

City/County Planning Director Frank Duke noted the absolute earliest this item could come back to Council would be September 18, 2006 City Council Meeting.

Sal Musarra, representing the applicant, noted the applicant is willing to move as aggressively as necessary in keeping with established procedures.

Council Member Woodard made comments on his three site visits. He stated commercial use would have a destabilizing impact on this neighborhood and is not the best use for this site.

Council Member Catotti made comments on the commercial uses.

For clarity, City/County Planning Director Frank Duke noted within commercial land use on the plan, you would be able to do things, such as, townhouses, multiplexes or apartments, office, institution, daycare or place of worship. He noted the limitation on uses would have to be connected with the zoning case and the development plan.

Council Member Catotti asked staff if this item is voted down how soon could the applicant come back with a plan amendment for multi-family or office use.

City/County Planning Director Frank Duke reported the applicant would need to revise the rezoning application, withdraw the current zoning application, and submit a new zoning application for a different land use/zoning designation which could be done immediately. He noted the issue is they would not be able to resubmit another zoning application using the current designation if they withdrew the existing zoning application for six months.

City/County Planning Director Frank Duke highlighted what the staff recommendation would be if the best use is townhome or office.

Mayor Bell made comments on the type of development that has taken place in that corridor and on those corners. He noted the property is not going to work the way it is and there is sensitivity to try to allow something to be worked out between property owners and community residents.

A motion was made by Council Member Stith seconded by Council Member Woodard to defer this item to the September 18, 2006 City Council Meeting.

If a deferral is approved, Mayor Bell stated the public hearing was closed; therefore, discussion would be among the Council unless the Council chooses to ask questions of persons in the audience.

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Council Member Clement urged the applicant to have more than one meeting with the community in an effort to reach consensus between now and September 18th.

Sal Musarra, representing the applicant, asked staff for clarification on the process.

City/County Planning Director Frank Duke noted they are still two independent processes. Clearly, Council will be asking questions about the outcome of the public meetings, but does not constitute approval of a development plan.

Mayor Bell noted the intent of the meetings is to hopefully reach some type of compromise.

MOTION by Council Member Stith seconded by Council Member Woodard to defer this item to the September 18, 2006 City Council Meeting to allow the applicant to meet with the community to come to some resolution on this item was approved at 10:04 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: HOPE VALLEY FARMS POD NN PLAN AMENDMENT (A05-10) – EAST SIDE OF SOUTH ROXBORO STREET, SOUTH OF MARTIN LUTHER KING, JR. PARKWAY, NORTH OF EDENBERRY DRIVE AND WEST OF COOK ROAD – COULTER JEWELL AND THAMES, PA

To adopt a Resolution to change the Land Use designation on the Future Land Use Map of the Durham Comprehensive Plan from Low Density Residential (4 DU/Ac or less) to Medium Density Residential (6-12 DU/Ac).

Staff Recommendation: Approval

Planning Commission Recommendation: Approval, 11-0, based on changing conditions in the area.

City/County Planning Director Frank Duke briefed Council on the land use plan amendment. He noted the applicant has suggested this particular request is justified based on an examination of the land use pattern that has emerged in Hope Valley Farms as it is continuing to develop. Mr. Duke noted by increasing the land use designation this permits the applicant to file a zoning request for a lower zoning designation that is on the property. He stated the request is consistent with the Comprehensive Plan, compatible with the land uses in the area, there are no adverse impacts identified, and the size of the property is adequate in its shape and size to accommodate the development under the proposed land use designation. He noted staff has no indication of any opposition or support for this case from the public, the Planning Commission recommended approval based on the changing conditions of the area after the initial approval of the subdivision.

Mayor Bell opened the public hearing.

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Attorney Kenneth Spaulding, representing the applicant [Westfield Homes], spoke in support of this land use plan amendment. He made comments on the overall Hope Valley Farms Master Development Plan. He stated the Master Plan is quickly being built out at a greater density than planned and this plan amendment reduces the remaining density correctly to keep the overall master plan in compliance. Attorney Spaulding asked Council to approve this plan amendment.

Bob Jentsch, of 3906 Springstop lane, spoke in opposition to the land use plan amendment. He urged Council to consider a different view of this proposal and consider a different approach that will perhaps encourage a quality project. He noted developing this site will greatly impact the property values in the area, but what will affect adjacent areas and the community is how the land is treated during development, the final design and use of the project. Mr. Jentsch stated today the site is fully wooded, steeply sloped and is a beautiful piece of attractive land, but expressed concern the way Westfield Homes developed the townhomes across the street and D R Horton developed sites that are similar to this plan amendment area which will completely destroy the environmental integrity of the land—they bull-dozed all trees, leveled the area, etc.--all for maximizing the profit of these out of town operators. Finally, he urged Council to ask for better on this site, deny the plan amendment and indicate to the applicant that you will give serious consideration only to an environmentally sensitive development plan rezoning.

Attorney Kenneth Spaulding, representing the applicant, stated this is a reduction of density for this area and urged Council to support this plan amendment. He noted Westfield Homes won an award for the layout of the property and noted some trees will have to be taken down and replanted in other areas. He stated the applicant has indicated they want to save as many trees as possible, noted the rezoning will come later upon passage of this issue, and it is a reduction in density which needs to be done based on the overall build out of Hope Valley Farms. Attorney Spaulding urged Council to support this plan amendment.

Mayor Bell closed the public hearing.

Mayor Bell made comments regarding the statement by Mr. Jentsch and noted that the Planning Commission has voted unanimously for this land use change and assuming that it does pass, he asked the proponents to take into consideration the concerns raised by Mr. Jentsch.

Council Member Brown raised a concern regarding the timing--approval one year ago--of this item.

City/County Planning Director Frank Duke stated it has taken that long in order to get the plan of the rezoning to a point where it is sufficient to move forward to the Planning Commission. He noted a rezoning with a development plan can take a longer period of time than a rezoning without a development plan.

MOTION by Council Member Stith seconded by Council Member Woodard to adopt a Resolution to change the Land Use designation on the Future Land Use Map of the Durham Comprehensive Plan from Low Density Residential (4 DU/Ac or less) to Medium Density Residential (6-12 DU/Ac) was approved at 10:21 p.m. by the following vote: Ayes: Mayor Bell,

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Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9379

SUBJECT: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT – TECHNICAL CHANGES I (TC06-04)

To receive public comments on the Unified Development Ordinance (UDO) Text Amendment – Technical Changes I (TC06-04); and

To adopt an Ordinance to amend the UDO – Technical Changes I (TC06-04) incorporating technical revisions to Articles 3, 6, 8, 9, 10, 11, 13, and 16 into the UDO.

City/County Planning Director Frank Duke noted this item includes a series of 19 separate revisions to the Unified Development Ordinance that are considered technical changes. He noted these revisions were recommended by the Inter-Neighborhood Council, the Home Builders Association and approved by the Joint City/County Committee, Planning Commission [June 29] and the Durham Board of County Commissioners [July 24].

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Catotti to receive public comments on the Unified Development Ordinance (UDO) Text Amendment – Technical Changes I (TC06-04); and

To adopt an Ordinance to amend the UDO – Technical Changes I (TC06-04) incorporating technical revisions to Articles 3, 6, 8, 9, 10, 11, 13, and 16 into the UDO was approved at 10:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13298

SUBJECT: ZONING MAP CHANGE (Z06-05) – 900 – 1000 DAVIDSON AVENUE, SOUTH OF EAST CLUB BOULEVARD – ROBERTS CONSTRUCTION COMPANY

To receive public comments on the zoning map change for 900 Davidson Avenue (Z06-05);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z06-05 out of IL and placing same in and establishing same as RU-5; and

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To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials; or

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval

Planning Commission Recommendation: Denial, 13-0.

City/County Planning Director Frank Duke briefed Council on the zoning map change. He stated the request is consistent with the Comprehensive Plan designation of the property which is medium density residential and it is more compatible with the surrounding uses in the site given the proximity of the site to Ellerbe Creek than the current industrial designation. He noted there is infrastructure in place to accommodate this request and this zoning change would be more in keeping with the environmental limitation of the site. He stated this case began as a result of a zoning violation on the site with some inappropriate fill and grading and the only way to remediate the site will be to file additional site plans; however, due to Durham's ordinance, those plans can't be filed unless we have a site plan showing development and with light industrial on the site that would be much more difficult than the residential designation. He noted it is not only the City that has an enforcement action on this property, it is also the County and State. Mr. Duke stated he received notice today from the Army Corps of Engineers that their enforcement action on this site has been resolved. He acknowledged the action requested is in part an effort to address those violations. He noted staff is recommending approval and the Planning Commission recommended denial of this item based on the project having a detrimental impact on the environment, the request could be not adequately evaluated because of the lack of a development plan and that approval would result in the loss of needed industrially zoned property in Durham.

City/County Planning Director Frank Duke stated the statement in the agenda item relative to the Planning Commission's recommendation is incorrect and the actual denial vote was 13/0.

Mayor Bell opened the public hearing.

Proponent

Duane Stewart, representing the applicant, spoke in support of this zoning map change. He made comments noting that Council approved the land use plan amendment change from industrial to residential a few months ago. He stated the request is to change the zoning designation from industrial to residential RU-5, which would be the best use of this property because of its location and because most of the property adjacent to this land is zoned and developed under the

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same zoning classification. He stated the applicant's intention is to maintain Davidson Avenue which is a dedicated right-of-way and he would develop that and put lots on both sides of the street. He commented on the wetland issue and noted the development of this property should have no impact on these roads.

Opponents

Whitney Wilkerson, of 2415 Casladilla Street, spoke in opposition to this zoning map change. She stated the Colonial Village Neighborhood Association Board opposes this rezoning request and the environmental impact of the project cannot be accurately assessed due to the fact that no development plan is attached to the rezoning request. She noted the area has a surplus of affordable housing and the neighborhood association is working diligently on a plan to increase homeownership rates, improve the quality and appearance of the existing affordable housing stock in their neighborhood. She stated this project should remain zoned for light industrial uses to help ensure future economic growth in Durham per the Comprehensive Plan. She asked individuals from various associations to stand who were opposed to this request.

Cheryl Shiflett, of 206 W. Club Boulevard, spoke in opposition to this zoning map change. She noted neighborhoods [Northgate Park and Colonial Village] are filled with affordable housing and this location is surrounded by light industrial. She noted there is no need for more housing that's put in the wrong place and residential and light industrial is the wrong place, no need for labor or building craftsmanship that just barely meets the minimum standards and building materials that are not sustainable just barely meeting the standard.

Paula Childers, of 407 E. Lavender Avenue, noted on behalf of the Ellerbe Creek Watershed Association they voted to oppose this rezoning and asked Council to reject this rezoning request because it would not be in the best interests of the community or Ellerbe creek. She stated the developer has not demonstrated any willingness to be a good steward of the Ellerbe Creek Watershed as demonstrated through prior activity in conducting the inappropriate wetland fill. She noted the impact of adding a significant tract of dense residential housing near the immediate watershed area is not predictable without a submitted site plan to base an evaluation on storm water mitigation, and other potential watershed impacts. Again, she asked Council to reject this rezoning request in the interests of the greater Durham community.

Rebuttal

Duane Stewart, representing the applicant, addressed the environmental concerns. He noted the applicant had violations, but has gone the extra mile to take care of it and letter from the Corps outlines what they have done. He noted the applicant is in the process of working with the City and County and a lot of this is tied in with site plans that would have to be submitted in order to go through the final steps. He made comments on the Transportation Study provided by the City Engineer stating that there would be less traffic generated from residential than would be from industrial and noted the environmental concerns such as storm water runoff, etc. will be addressed at the site plan stage.

Mayor Bell closed the public hearing.

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Council Member Catotti noted she was concern about the violations and illegal fill, but equally concerned about the remediation. She noted she doesn't believe that industrial is a preferred use next to sensitive wetlands. She asked staff what would happen in terms of remediation, if this zoning does not move forward.

City/County Planning Director Frank Duke noted the quickest way to move forward with a plan to remediate the site is to do this through residential zoning. Otherwise, you are going to have to provide a site plan that shows development of the site which is very difficult to do unless you have a consumer of the site and the Chamber of Commerce has indicated that this site is not marketable as industrial land. He highlighted uses that could be done on this property as a light industrial site to include warehouses, recycling centers, vehicle repair; junk yard and raised a concern that some of these uses would be more detrimental to the environment as would residential. Mr. Duke recommended residential not only because the uses are less detrimental to the creek, watershed and wetlands, but also the quickest way to move forward with remediation plans and would allow them to move forward in addressing the outstanding issues between City Zoning enforcement and County Sedimentation and Erosion Control.

Due to concerns raised that there is no development plan and future environmental issues, Council Member Catotti asked staff to address what a development plan would do and what is governing this property.

City/County Planning Director Frank Duke replied the unified development ordinance is governing this property. He made comments on the size of lots all fronting on an existing right-of-way.

Council Member Catotti asked staff is part of Davidson Road currently shown in the floodplain.

City/County Planning Director Frank Duke replied yes.

Council Member Catotti asked staff what protection does the neighborhood have in terms of quality of construction.

City/County Planning Director Frank Duke noted the quality of construction is controlled through the N C Building Code.

Council Member Catotti noted she was very concern about remediation moving forward and noted industrial is not an appropriate use for this site.

Council Member Stith asked if remediation needs to take place why do we have to deal with the rezoning.

City/County Planning Director Frank Duke referenced the ordinance.

Council Member Stith asked staff if this request would be adding to the environmental issue.

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City/County Planning Director Frank noted staff doesn't believe so because of one of the changes in the ordinance –any proposed fill in the floodplain automatically turns the project into a major site plan and that fill is no longer approved by the Development Review Board, but has to come back to Council. He made comments noting the UDO gives you better protection than the old Zoning Ordinance.

Council Member Brown asked the applicant questions relative to environmental issues.

Duane Stewart, representing the applicant, outlined what the applicant did after notification of violation relative to the floodplain and wetlands. Also, he noted the applicant has been working with Erosion Control (County and State) and has gone the extra mile in order to rectify what he did wrong.

Relative to the letter received from the Army Corps of Engineers, City/County Planning Director Frank Duke stated the Army Corps of Engineers issues associated with this property have now been resolved. He noted this request before Council tonight is a part of those efforts to work toward correcting those violations.

Council Member Brown asked staff how is illegal dumping of this size going on in this City without being recognized.

City/County Planning Director Frank Duke noted unfortunately, the Planning Department did not get notified of this by any member of the public, but staff actually discovered this during a site investigation. He commented on the Zoning Enforcement staffing issue that has been addressed.

Council Member Brown asked staff if the proposed project would be better for the environment and watershed than if it remains light industrial.

City/County Planning Director Frank Duke replied yes. He noted one of the concerns is some of the uses for light industrial would require once the site is developed to be totally screened from view and staff would have no clue of what is going on in those areas. He made comments on the industrial land.

Council Member Woodard asked representatives from Colonial Village why they support light industrial.

Anne Guyton noted the imperious surface and all those regulations are the same regardless of whether it's light industrial or residential.

Council Member Woodard asked representative to address the traffic issue.

Ann Guyton noted there are so many trucks that go up and down the road for industrial uses this one site is not going to make any difference in the overall traffic pattern.

Council Member Woodard asked Ms. Childers to address why industrial adjacent to Ellerbe Creek is better than residential neighborhood next to Ellerbe Creek.

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Paula Childers stated this was a subject of much discussion at their last board meeting and their first impulse was to agree with the rezoning in many cases a good residential use will be better for the wetlands than an industrial use. However, it has been their experience working in wetland areas throughout the City of Durham when you get areas that have low cost rental housing it results in more illegal dumping happening in the Creek. She reported industrial users get monitored under specific guidelines for whatever business they are conducting. She noted it's one use being monitored rather than a whole bunch of individual uses that might be taken place near there. She stated our biggest concern was that there was no site plan to review with this rezoning request.

Council Member Clement made comments on e-mails received referencing the lack of a development plan.

City/County Planning Director Frank Duke described what a development plan is and noted after what he has heard tonight -- a development plan would not offer additional information or additional protection.

Council Member Clement asked staff to address correspondence from the U. S. Army Corps of Engineers—Unauthorized activity.

City/County Planning Director Frank Duke indicated as a result of unauthorized fill—that took place without an permit—there has been a violation of the Clean Water Act, Section 301(33 USC 1311) and this is an acknowledgement that this a violation of the Clean Water Act. He noted the second paragraph indicates that if you have performed remedial action listed below—remove the unauthorized fill, restore the natural elevation of the impacted wetland and stabilize the site—then the Corps will consider their issues addressed. The last portion of correspondence notes: My site inspection of July 12, 2006 verified that the unauthorized fill has been removed from the wetland, natural elections have been restored and the site has been stabilized. Therefore, the violation has been successfully restored, the project site is in compliance, and no further action regarding this violation is necessary, that is, clearing the site from the violations that the Corps had acknowledged existed when they first reviewed this site some months ago.

Mr. Duke also noted from the Corps position as it relates to the violation of the Clean Water Act they maintain the violation has been addressed, there is no longer a violation and will not be taking any further action.

Council Member Catotti asked staff if they have heard anything from the State.

Mr. Frank Duke stated he has not heard anything from the State and noted those issues are still underway.

Council Member Catotti asked the applicant to address the issue of quality housing.

Duane Stewart, representing the applicant, stated Mr. Roberts will be doing similar to what he has done in the past.

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Council Member Stith made comments on the environmental issues, noted he would prefer some remedy to correct what's there and he will not be supporting this item.

Discussion was held on violations.

Council Member Stith asked staff about the inspection requirements.

City/County Planning Director Frank Duke noted staff does not have the ability to go on private property to do an inspection. He made comments on the one issue of concern under light industrial which would follow under the Falls Jordan restrictions. He noted the only restriction on light industrial use spelled out in the overlay is that it cannot be a use that stores or manufactures nuclear waste—everything else is on the table. Mr. Duke stated there is no way to restrict the industrial use so long as it meets ordinance requirements to a site.

Council Member Brown asked staff if it would be difficult to get very many 5,000 square foot lots on this site.

City/County Planning Director Frank Duke replied yes.

Council Member Brown asked staff if item is approved tonight, and it goes to site plan the developer can do anything he wants.

City/County Planning Director Frank Duke discussed the site plan issue under North Carolina law.

Council Member Clement asked the Planning Director about staff's recommendation.

City/County Planning Director Frank Duke said this rezoning is the cleanest and quickest way to address violations.

Council Member Brown noted Council is here voting on a zoning map change and is not for or against a particular construction.

City/County Planning Director Frank Duke noted Council should not consider personality, but should consider issues of compatibility, appropriateness, capacity of infrastructure, consistency with plans.

Mr. Duke informed Council that all the required certifications for all zoning items tonight were appropriately posted and noticed as required by North Carolina law.

MOTION by Council Member Clement seconded by Council Member Catotti to receive public comments on the zoning map change for 900 Davidson Avenue (Z06-05);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z06-05 out of IL and placing same in and establishing same as RU-5 **FAILED** at 11:24 p.m. by the following vote: Ayes: Council Members Brown, Catotti and Clement. Noes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Stith and Woodard. Absent: None.

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SUBJECT: ZONING MAP CHANGE (Z06-13) – 2303 COOK ROAD, EAST OF COOK ROAD, WEST OF FAYETTEVILLE ROAD AND SOUTH OF KESWICK COURT – EL RECURSO, LLC

Note: Protest petition no longer valid due to withdrawal of all signatures.

To receive public comments on the zoning map change for 2303 Cook Road (Z06-13);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z06-13 out of RS-20 and placing same in and establishing same as RS-10; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials; or

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Planning Department Recommendation: Approval, based on consistency with the Comprehensive Plan and the information contained in this report.

Planning Commission Recommendation and Vote: Denial, 12-0 on April 11, 2006.

The Planning Commission finds that the requested revision to the zoning districts of the UDO is consistent with the adopted Comprehensive Plan. The Commission recommends that the request be denied based on finding that the use is inconsistent with neighboring uses, the presence of significant opposition from the community, the lack of a development plan submittal and considering the information in the staff report and comments received during the public hearing.

City/County Planning Director Frank Duke briefed Council on the zoning map change. He stated the change would allow the existing lot to be subdivided into two lots. He noted this request is compatible with the adjoining land uses, meets the zoning ordinance requirements intensity of the initial requirements established in the ordinance that there is infrastructure capacity to serve the development and is consistent with the Comprehensive Plan. He stated the Planning staff is recommending approval, the Planning Commission recommended denial finding that the use was inconsistent with neighboring uses, there was significant opposition from the community, there was no development plan submitted and considering the information in the staff report.

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Mayor Bell opened the public hearing.

Proponent

Ben Connell, representing the applicant, pointed out what happened since the initial Planning Commission Meeting. He noted he had meetings with residents, but wasn't aware of any opposition, but found out that there was a zoning map change protest petition. Mr. Connell stated the applicant committed to a restricted covenant on the lot on what will happen and since that time all names have been removed from the zoning map change protest petition. He urged Council to move forward with this rezoning.

No one spoke in opposition to this zoning map change.

Mayor Bell closed the public hearing.

MOTION by Council Member Clement seconded by Council Member Catotti to receive public comments on the zoning map change for 2303 Cook Road (Z06-13);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z06-13 out of RS-20 and placing same in and establishing same as RS-10; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 11:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13299

SUBJECT: INITIAL ZONING MAP CHANGE (Z05-43A) – GREENFIELD – CITY OF DURHAM – NORTH SIDE OF SHERRON ROAD BETWEEN PLANATATION DRIVE AND MINERAL SPRINGS ROAD

To receive public comments on the initial zoning map change for Greenfield (Z05-43A);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish RS-20; F/J-B zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials -

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the site is located on the north side of Sherron Road between Plantation Drive and Mineral Springs Road, PIN: 0850-03-13-9709.

Planning Department Recommendation: Approval, based on consistency with the Comprehensive Plan and the information contained in this report.

Planning Commission Recommendation: Approval, per the resolution adopted by the Commission on December 13, 2005 and attached to the staff report.

City/County Planning Director Frank Duke briefed Council on the initial zoning map change. He noted this request represents the initial zoning of property recently annexed into the City; there is no change in designation proposed between its former designation in the County RS-20 and the proposed City designation. He stated based on that, staff is recommending approval, Planning Commission recommended approval consistent with their resolution adopted December 13, 2005 indicating automatic approval of any initial zoning map change that did not result in a change in the land use designation.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Clement seconded by Council Member Woodard to receive public comments on the initial zoning map change for Greenfield (Z05-43A);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish RS-20; F/J-B zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials - the site is located on the north side of Sherron Road between Plantation Drive and Mineral Springs Road, PIN: 0850-03-13-9709 was approved at 11:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: INITIAL ZONING MAP CHANGE (Z06-04A) – ELLINGTON PLACE – CITY OF DURHAM – WEST AND EAST SIDES OF MINERAL SPRINGS ROAD, SOUTH OF PLEASANT DRIVE AND NORTH OF DELMAR DRIVE

To receive public comments on the initial zoning map change for Ellington Place (Z06-04A);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish RR, RS-20; F/J-B zoning for the property described in the attached staff report; and

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To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials -- the site is located at the west and east sides of Mineral Springs Road, south of Pleasant Drive and north of Delmar Drive, PINs: 0840-02-76-8746, 0840-02-85-2593, 0840-02-85-4214, 0840-02-85-5214, 0840-02-85-5522, 0840-02-85-6541, 0840-02-85-7571, 0840-02-86-4139, 0840-02-96-1043, 0840-02-96-5058, 0840-02-96-8103, 0850-01-05-6804.

Planning Department Recommendation: Approval, based on consistency with the Comprehensive Plan and the information contained in this report.

Planning Commission Recommendation: Approval, per the resolution adopted by the Commission on December 13, 2005 and attached to the staff report.

City/County Planning Director Frank Duke briefed Council on the initial zoning map change. He noted the designation in the County was RR, RS-20 and the proposed designation in the City would be same. He stated staff is recommending approval given the lack of change and the Planning Commission voted to approve this item based on its resolution approved December 13, 2005—automatic approval if there is no change in designation.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Clement seconded by Council Member Catotti to receive public comments on the initial zoning map change for Ellington Place (Z06-04A);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish RR, RS-20; F/J-B zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 11:31 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #

SUBJECT: ZONING MAP CHANGE (Z06-14) – ERWIN OIL US 70, SOUTH OF LYNN ROAD – ERWIN OIL COMPANY, INC.

To receive public comments on the zoning map change for Erwin Oil US 70 (Z06-14);

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To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z06-14 out of CC(D) and CG(D) and placing same in and establishing same as CC; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials; or

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Planning Staff Recommendation: Staff recommends approval, based on the consistency with the Durham Comprehensive Plan and the information contained within the staff report.

Planning Commission Recommendation and Vote: Denial, 8-5 on April 11, 2006. The Planning Commission finds that the requested revision to the zoning districts of the UDO is consistent with the adopted Durham Comprehensive Plan. The Commission recommends that the request be denied based on finding that the proposed project will have a detrimental impact on the existing traffic infrastructure by increasing traffic congestion and traffic movement conflicts, that the request could not be adequately evaluated because of the lack of a development plan, that sufficient undeveloped commercially zoned property currently exists within close proximity of this site, that this use is inconsistent with adjacent uses; and considering the information in the staff report and comments received during the public hearing.

City/County Planning Director Frank Duke briefed Council on the zoning map change. He stated the request is compatible with other development in the area; there are no environmental constraints that would preclude the site from being developed under the proposed zoning, and meets all the initial requirements of the zoning ordinance. He reported there is infrastructure capacity to serve the demand resulting from development based on this request and is consistent with the Comprehensive Plan. He said staff is recommending approval and the Planning Commission recommended denial based on the finding that the proposed project would have detrimental impact on existing traffic infrastructure by increasing traffic congestion and traffic moving conflicts, could not be adequately evaluated due to a lack of a development, and there is sufficient undeveloped commercially zoned property within proximity to the site, uses inconsistent with adjacent uses and in considering the information in the staff report. He referenced the parcel is partially unincorporated in Durham County and partially in the City of Durham. He reported this case went to the Durham Board of Commissioners on June 26, 2006 and they voted to approve the zoning request.

Mayor Bell opened the public hearing.

Proponent

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Craigie Sanders, representing the applicant, spoke in support of this item. He provided background information on the Erwin family and urged Council to support this Zoning Map Change.

Due to potential road improvements, Council Member Catotti noted she had concern with the need for future right-of-way.

Craigie Sanders, representing the applicant, noted the applicant's intention is to reserve right-of-way at the site plan stage of the development.

Council Member Catotti asked if it was reserved or dedicated.

Craigie Sanders, representing the applicant, noted it is the applicant's intention to go ahead and make that reservation.

City/County Planning Director Frank Duke stated at this point the applicant cannot make any commitment because there is no development. Also, he addressed the issue of reservation vs dedication. He noted with dedication there is no cost to the City for the acquisition, but with a reservation we do end up paying for the property down the road.

Council Member Catotti noted her concern is with the differentiation between reservation and dedication with future acquisition cost for the City.

Craigie Sanders, representing the applicant, noted the applicant has all intention of making that reservation for a right-of-way.

No one spoke in opposition to this zoning map change.

Mayor Bell closed the public hearing.

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive public comments on the zoning map change for Erwin Oil US 70 (Z06-14);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z06-14 out of CC(D) and CG(D) and placing same in and establishing same as CC; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 11:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13300

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**SUBJECT: ZONING MAP CHANGE (Z06-20) – THE CLOISTERS AT AUBURN –
THE JOHN R. MCADAMS COMPANY, INC. - EAST AND WEST SIDES
OF PEBBLE CREEK CROSSING, SOUTH OF AUBURN SQUARE DRIVE
AND MALLORY LANE**

To receive public comments on the zoning map change for the Cloisters at Auburn (Z06-20);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z06-20 out of PDR 5.37 and placing same in and establishing same as PDR 5.37 Change to Development Plan; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials; or

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Planning Staff Recommendation: Staff recommends approval, based on the consistency with the Durham Comprehensive Plan and the information contained within the staff report.

Planning Commission Recommendation and Vote: Approval, 11-2, on May 9, 2006. The Planning Commission recommends approval based on finding that the ordinance request is consistent with the adopted Durham Comprehensive Plan, and considering the information in the staff report and comments received during the public hearing.

City/County Planning Director Frank Duke briefed Council on the zoning map change. He noted the applicant is seeking a modification in the development plan to change the development potential of this particular site to permit townhomes to be developed compatible with what's on the remainder of the site. He stated this request has been evaluated by staff to assure compatibility of the adjoining area, the initial requirements of the ordinance are being met and that there is no adverse infrastructure impacts, the site can be developed given the environmental sensitivity and is consistent with the Comprehensive Plan and for that reason staff is recommending approval, Planning Commission voted to approve the request finding that it was consistent with the Comprehensive Plan and considering the information contained in the staff report.

Mayor Bell opened the public hearing.

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Two proponents signed up to speak on this item; however, there was no present to speak in opposition to this request or questions for the proponents.

Mayor Bell closed the public hearing.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive public comments on the zoning map change for the Cloisters at Auburn (Z06-20);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z06-20 out of PDR 5.37 and placing same in and establishing same as PDR 5.37 Change to Development Plan; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 11:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: INITIAL ZONING MAP CHANGE (Z06-22A) – STATE EMPLOYEES CREDIT UNION – EAST DURHAM, INTERSECTION OF NC98 AND HILLVIEW DRIVE

To receive public comments on the initial zoning map change for State Employees Credit Union – East Durham (Z06-22A);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish CC; F/J-B zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that, while the action is inconsistent with the Comprehensive Plan, is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials -- the site is located at the intersection of NC 98 and Hillview Drive, PINs: 0860-01-39-0623, 0860-01-39-0733, 0860-01-39-0826, 0860-01-39-1693, 0860-01-39-1956, 0860-01-39-2828, 0860-01-39-2891, 0860-01-39-3764, 0861-03-30-0034.

Planning Department Recommendation: Approval, based on annexation by the Council and the information contained in this report.

Planning Commission Recommendation: Approval, per the resolution adopted by the Commission on December 13, 2005 and attached to the staff report.

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City/County Planning Director Frank Duke briefed Council on the initial zoning map change. He noted there would be no change in the zoning classification and that staff is recommending approval and the Planning Commission recommended approval consistent with their resolution of December 13, 2005.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive public comments on the initial zoning map change for State Employees Credit Union – East Durham (Z06-22A);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish CC; F/J-B zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that, while the action is inconsistent with the Comprehensive Plan, is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials was approved at 11:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: ZONING MAP CHANGE (Z06-36) – BRIGHTLEAF SCHOOL – BRIGHTLEAF DEVELOPMENT ON BEHALF OF DURHAM PUBLIC SCHOOLS – SOUTHSIDE OF SHERRON ROAD, EAST OF MINERAL SPRINGS ROAD AND WEST OF SCHEER ROAD

To receive public comments on the zoning map change for Brightleaf School (Z06-36);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z06-14 out of PDR 3.99 and placing same in and establishing same as RS-8; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials; or

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

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Planning Staff Recommendation: Staff recommends approval, based on the consistency with the Durham Comprehensive Plan and the information contained within the staff report.

Planning Commission Recommendation and Vote: Approval, 11-2, on May 9, 2006. The Planning Commission recommends approval based on finding that the ordinance request is consistent with the adopted Durham Comprehensive Plan, and considering the information in the staff report and comments received during the public hearing.

City/County Planning Director Frank Duke briefed Council on the staff report. He stated on the original development plan for the Brightleaf development there was a committed element that the Brightleaf Development would provide the Durham Public Schools with a school site. He noted when the Durham Public Schools came forward and looked at the property that had been set aside by the developer for the school site, they determined it was not appropriate for a school and chose this other site as the more appropriate site and that's is why this matter is coming forward as a request not from Durham Public Schools as outlined in the staff report, but from Brightleaf Development on behalf of Durham Public Schools who is trying to honor their commitments made in their prior development plan to provide a site for a public school. He noted staff is recommending approval, the Planning Commission recommended approval finding that the request is consistent with the Comprehensive Plan and based on the information contained in the staff report.

Mayor Bell opened the public hearing. Since there was no one to speak in opposition to this request and no questions for the proponents, the Mayor closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Clement to receive public comments on the zoning map change for Brightleaf School (Z06-36);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z06-14 out of PDR 3.99 and placing same in and establishing same as RS-8; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 11:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

[ITEM ADDED TO AGENDA]

SUBJECT: CITY COUNCIL MEALS

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Council Member Stith noted the original intent for Council meals that started in 1999 was to have this as a team building and networking for Council, but has become an issue of concern in the community.

A motion was made by Council Member Stith to discontinue the practice of providing meals to Council sponsored meetings, work sessions, etc. The motion dies for a lack of a second.

Mayor Bell made comments on the article that appeared in the newspaper concerning Council meals.

Council Member Catotti made comments on the article that appeared in the newspaper, and noted meals were provided for other sponsored events, such as, Youth Council, Crime Cabinet, Budget Retreats, Receptions, etc. She asked the City Clerk to provide a breakdown of meals provided.

[ITEMS PULLED FROM CONSENT AGENDA]

SUBJECT: PIGGYBACK PURCHASE – FOUR FRONT-LOADING REFUSE COLLECTION VEHICLES - AMICK EQUIPMENT COMPANY, INC.

Council Member Stith made comments on delaying this item so that the incoming Solid Waste Director can get an opportunity to review this item.

City Manager Baker made comments on the ongoing conversations he has had with the incoming Solid Waste Director who concurs with the direction that we are going and aware of the purchases. He made comments on the staffing changes that will come back to Council at a later date.

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a contract with Amick Equipment Company, Inc., in the amount of \$725,980 for providing the City with four Front-Loading Refuse Collection Vehicles; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 11:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: PIGGYBACK PURCHASE – THREE AUTOMATED ARM REFUSE COLLECTION VEHICLES - AMICK EQUIPMENT COMPANY, INC.

Council Member Stith made comments on delaying this item so that the incoming Solid Waste Director can get an opportunity to review this item.

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City Manager Baker made comments on the ongoing conversations he has had with the incoming Solid Waste Director who concurs with the direction that we are going and aware of the purchases. He made comments on the staffing changes that will come back to Council at a later date.

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a contract with Amick Equipment Company, Inc., in the amount of \$568,692 for providing the City with three Automated Arm Refuse Collection Vehicles; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 11:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: WORKFORCE INVESTMENT ACT INCUMBENT WORKFORCE
 GRANT – NORTEL NETWORKS, INC.**

Mayor Bell noted this item was pulled by Victoria Peterson who has left the meeting.

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute an Incumbent Workforce training contract with Nortel Networks Inc. in the amount \$36,800; and

To make changes to the contract as long as they do not increase the contract amount nor alter the completion date of the contract was approved at 11:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: WORKFORCE INVESTMENT ACT (WIA) GRANT INCUMBENT
 CONTRACT- SANMINA-SCIUSA, INC.**

Mayor Bell noted this item was pulled by Victoria Peterson who has left the meeting.

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute an Incumbent worker training contact with Sanmina-SCI USA, Inc. in the amount of \$33,000; and

To make changes to the contract as long as they do not increase the contract amount nor alter the completion date of the contract was approved at 11:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

August 7, 2006

SUBJECT: CONTRACT FOR USE OF THE CITY OF DURHAM 2006 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT BY THE DISTRICT ATTORNEY AND THE ADMINISTRATIVE OFFICE OF THE COURTS

Council Member Stith raised a concern that he did not have complete information on what the prosecutor had accomplished. He raised a question regarding the return from the investment and tracking results.

Stormy Ellis, Gang Prosecutor, made comments on the incomplete gang database that she is working on, but will include tracking results/information requested.

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a contract between the City of Durham, Michael B. Nifong, District Attorney for the Fourteenth Prosecutorial District and the Administrative Office of the Courts under which the Administrative Office of the Courts will expend City funds to continue to support one full time Assistant District Attorney position to act as prosecutor for the Gang and Habitual Felon Task Force in the amount of \$59,331; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the agreement was approved at 12:03 a.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: EXTENSION OF TEMPORARY ORDINANCE PERTAINING TO TAXICAB RATES AUTHORIZING FUEL SURCHARGE

Council Member Stith raised a concern about the impact this item would have on the folks that can least afford the increase.

A motion was made by Council Member Stith to exempt senior citizens from the taxicab rate surcharge. Motion dies for a lack of a second.

President of Durham Taxicab Association spoke in support of this item due to high gas prices, maintenance and the expansion of the County.

Mayor Bell raised a concern with exempting senior citizens.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to adopt an Ordinance extending a temporary ordinance authorizing an expanded taxicab rate surcharge was approved at 12:03 a.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

August 7, 2006

Ordinance #13297

There being no further business to come before the City Council, the meeting was adjourned at 12:03 a.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk